UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

MICHAEL T. BRAXTON]	
Petitioner,]	
]	
v.]	No. 3:08-0497
]	Judge Trauger
JAMES FORTNER, Warden, et al.]	
Respondents.	1	

ORDER

By an order (Docket Entry No. 19) entered March 11, 2009, the instant *pro se* § 2254 habeas corpus action was dismissed as untimely.

Presently before the Court are petitioner's Motion (Docket Entry No. 21) for Relief from Judgment under Rule 60(b) and Motion (Docket Entry No. 23) to Obtain Status of the Rule 60(b) Motion.

The petitioner cites Rule 60(b)(5) and (6) as the bases for his Motion for Relief from Judgment. Such a motion, however, "... must be made within a reasonable time..". Rule 60(c)(1), Fed. R. Civ. P.

This action has been closed for more than five years. The petitioner did not appeal the dismissal. There has been no explanation as to why the petitioner has taken so long to file his Rule 60(b) Motion. Nor has the petitioner made any showing that this action was dismissed in error.

The Court finds, therefore, that the petitioner has not filed his Rule 60(b) Motion within a reasonable time. As a consequence, the Rule 60(b) Motion is untimely and is DENIED for that reason. The denial of the Rule 60(b) Motion renders MOOT the petitioner's Motion to Obtain

Status.

It is so ORDERED.

Aleta A. Trauger United States District Judge